IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 2225 of 2006

MANGI LAL & ANR.
V/S
STATE & ANR.

Mr. MAHESH SHARMA for Mr. AK SINGH, for the petitioner

Date of Order : 24.5.2006

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the petitioner.

The only prayer made in the writ petition is, that the respondents be directed to immediately take necessary steps, and pass necessary orders for cancellation of the age, mentioned in the service record of the petitioners, and to mention correct age of the petitioners. Another request made is, for a direction to consider the representation of the petitioners, and accordingly, to initiate necessary proceedings in this direction.

The case of the petitioners is, that they were appointed as Beldars, and subsequently, in compliance of the directions of Hon'ble the Supreme Court, they were declared semi-permanent by order dated 21.10.1995, which has been produced as Annex.3, wherein the names of the

petitioners have been shown at serial No.42 and 43. Against this entry, the date of birth of the petitioners has been shown as 1.4.47 and 1.2.48 respectively, while as a matter of fact, the date of birth of the petitioner No.1 is 7.12.64, and that of petitioner No.2 is 15.6.65. It is alleged by the petitioners, that when the fact, of mentioning wrong date of birth, came to their knowledge, they made representations, and submitted, that at the time of declaring them as work charged employees, they had submitted affidavit mentioning their actual date of birth, but that has not been considered in the appointment order, instead a wrong date of birth has been mentioned, and that they are ready to get themselves medically examined. It is also alleged, that representation was not responded, and rather the communication (Annex.6) came to be issued, conveying that the certificate issued by the Secretary, Gram Panchayat is without any basis and evidence, and therefore, it is not admissible. Then in para-10, it is alleged "..besides above, when the petitioners had submitted the certificate at the time of their declaration as work-charged employee, it is not understandable as to what thing prevented the respondents to mention their correct age in their service record..". Thus, the petitioners want to convey, that at the time, when they were declared semi permanent, the petitioners submitted

"certificate" about their date of birth.

In my view, the theories propounded by the petitioners are ex-facie not reliable, inasmuch as a look at Annex.5 shows, that these are representations submitted by the two petitioners on 3.4.99, wherein it is alleged, that at the time of declaring them work charged employees, they got prepared affidavit, but entry could not be made in the service record on that basis, and therefore, they may be got medically examined, and date of birth be corrected in the service record. An affidavit about date of birth was said to have been enclosed with each of the representation. What is that "certificate", is not made clear before this Court. Then it appears, that this was not all, inasmuch as, the representations are dated 3.4.99, while Annex.6 is dated 29.12.2001, and many more things appear to have transpired during this interregnum period. The petitioners have not disclosed in the writ petition, as to what transpired during this period, inasmuch as, in para-7, all that has been pleaded is, that whenever the petitioner met the authorities, lip assurance was given, and nothing came out. Then in para-8, it is pleaded, that surprisingly and shockingly, a thunderbolt came from the blue, in the shape of Annex.6. Then in para-2 of the writ petition, it is sought to be pleaded, that the petitioners seek to rely

upon Annex.1 and 2, the certificates issued by the Gram Panchayat about the date of birth of the petitioners. In the entire writ, it is nowhere the averment, that these certificates (Annex.1 and 2) were submitted to the authorities, to substantiate their claim about the date of birth, while a look at Annex.6 shows, that these certificates were produced before the authorities, and they were not relied upon.

This leave me to infer, that after Annex.5, the matter was considered, the petitioners were heard, and the things had been made clear to the petitioner, either, that at the time of declaring the petitioners as work charged employees, no certificate or affidavit was filed showing their date of birth to be of the year 1964 or 1965, or the like, and thereupon the petitioners procured certificates (Annex.1 and 2), and appear to have submitted them to the authorities, which have not been believed. A look at Annex.1 and 2 shows, that they are issued on 1.11.2001, and the date of registration, of the factum of birth is also the same, being 1.11.2001.

It doesn't stand to reason that the Gram Panchayat had any other basis to enter the date of birth of the petitioners, on the basis of its being correct, except

that the entry has been made, as given out by the petitioners on 1.11.2001 itself, and that very day, the certificate has been issued. It would suffice to observe, that by then, the controversy had not only arisen, but had rather become very old, inasmuch as, the date of birth of the petitioners to be of the year 1947 or 1948 was recorded way-back in 1995, and therefore, these certificates cannot be taken to be having any better status, than that of self serving admissions, and therefore, they have rightly been discarded vide Annex.6.

It appears that considering the date of birth of the petitioners to be of the year 1947 and 1948, since they are approaching to the age of superannuation, at that point of time, the controversy is sought to be raised, and sought to be got ventilated in this Court. In the paragraph of interim relief, it has clearly been mentioned, that the petitioners are going to be retired in the year 2006 itself. Thus, it also shows, that the controversy is sought to be raised, for extraneous considerations, at this belated hour, i.e. at the verge of the petitioners' superannuation, which cannot be entertained.

Learned counsel for the petitioner has not been able to show any legal authority, on the basis of which the

petitioner can invoke Art. 226 jurisdiction, to direct the respondents, to now verify the age of the petitioners, by getting them medically examined.

Thus, I do not find any force in the writ petition. The same is, therefore, dismissed summarily.

(N P GUPTA),J.